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### Stream Protection Act (SPA 124) Permit

DESIGN & CONSTRUCTION
DEPT. OF FISH, WILDLIFE & PARKS

Date: April 5, 2013

Applicant Name: Montana Fish, Wildlife and Parks

Address: PO Box 200701

Helena, MT 59620-0701

Permit #: MI-04-13

Waterbody: Tillet Spring near Bluewater fish hatchery

Project Name: Capping and securing Tillet Spring

# Project Description:

The proposed project is to cap an open spring (Tillet Spring) near the Bluewater Fish Hatchery with a precast concrete cover on a cast in place concrete grade wall around the spring to secure a new water source for the hatchery. Existing pipes currently collecting water from the spring will be replaced with new pipes which will run to a new aeration tower and then on to the hatchery building. A weir box will be installed in the pipeline so that when water is not being used in the hatchery building it can be piped to the Bluewater Spring water collection box for use in the existing outside raceways.

Montana Fish, Wildlife & Parks has reviewed the proposed project. The project is approved provided it is carried out in accordance with the information supplied in the application, all general conditions listed on page 3 of this permit, and any special conditions listed below.

Expiration: This permit is valid for 1 year(s) from the date of issuance.

Timing Restrictions: No Yes if yes see below.

No in-stream work between and

# **Stream Protection Act 124 Permit General Conditions**

- 1. Complete work affecting a streambed or stream bank in an expeditious manner to avoid unnecessary impacts to the stream.
- 2. Limit the clearing of vegetation to that which is absolutely necessary for construction of the project. Take precautions to preserve existing riparian vegetation. Salvage and reuse native vegetation where possible.
- 3. Install and maintain erosion control measures where appropriate to protect aquatic resources. Do not clear and grub land adjacent to streams prior to installing proper erosion and sedimentation controls. Conduct all work in a manner that minimizes turbidity and other disturbances to aquatic resources.
- 4. Plan temporary construction facilities to:
  - Minimize disturbance to stream banks, stream bank vegetation, and the streambed by locating staging or storage facilities at least 50' horizontally from the highest anticipated water level during construction;
  - b. not restrict or impede fish passage in streams; and
  - c. not restrict any flow anticipated during use.
- 5. Provide sediment controls for drainage from topsoil stockpiles, staging areas, access roads, channel changes, and instream excavations.
- 6. Isolate work zones from flowing and standing waters to prevent turbid water and sediments from being discharged into streams or other drainages that flow directly into the stream. Divert flowing waters around the work zone.
- 7. Do not spill or dump material into streams. Store and handle petroleum products, chemicals, cement and other deleterious materials in a manner that will prevent their entering streams.
- 8. Do not permit wash water from cleaning concrete-related equipment or wet concrete to enter streams.
- 9. Do not operate mechanized equipment in any stream or flowing water unless special authorization is obtained. If special authorization is granted, the following conditions apply:
  - a. Powerwash all equipment allowed in a stream prior to entering the stream channel.
  - b. Clean and maintain all equipment so that petroleum-based products and hydraulic fluids do not leak or spill into the waterway.
- 10. Reclaim streambeds and stream banks as closely as possible to their pre-disturbed condition.
- 11. Restore disturbed stream banks to their natural or pre-disturbed configuration to match adjacent ground contours or as specified in the project plans. Stabilize, reseed, and re-vegetate disturbed areas. Install and maintain long-term biodegradable erosion-control measures to protect these areas until adequate vegetation has been established.
- 12. Restore temporary access routes and any temporarily disturbed areas to original conditions, including original contours and vegetation.
- 13. Dispose of any excess material generated from the project above the ordinary high water mark and in an area not classified as a wetland.

Si	pecial	Cond	ditio	ns:
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None

# 318 Authorization Review

I have reviewed the above project on behalf of the Montana Department of Environmental Quality (DEQ) pursuant to the Montana Water Quality Act Short-term Water Quality Standards for Turbidity 75-5-318 MCA:

•	This project <u>will not</u> increase turbidity if completed according to the conditions listed in the 310 or 124 permit. Therefore, application to DEQ for a 318 authorization <u>is not</u> required.
0	Impacts to the physical and biological environment from turbidity generated as a result of this project are uncertain. Therefore, the applicant must contact the Montana Department of Environmental Quality, 1520 East Sixth Avenue, Box 200901, Helena MT 59620-0901, (406 444-3080) to determine project specific narrative conditions required to meet short-term water quality standards and protect aquatic biota.
0	Turbidity generated from this project is expected to be short-term and have only temporary and minor impacts on the physical and biological environment. Therefore, compliance with the conditions stated in the attached letter outlining <b>DEQ</b> 's Short Term Water Quality Standard for Turbidity Related to Construction Activity, as well as other conditions listed in the 310 or 124 permit, are appropriate for this

Issuing Biologist: Ken Frazer

project.

Signature: Ken theaper



#### **DEPARTMENT OF THE ARMY**

CORPS OF ENGINEERS, OMAHA DISTRICT BILLINGS REGULATORY OFFICE POST OFFICE BOX 2256 BILLINGS, MONTANA 59103-2256

March 19, 2013

# RECEIVED

PHAR 2 U 2013

DESIGN & CONSTRUCTION DEPT. OF FISH, WILDLIFE & PARKS

Regulatory Branch Montana State Program

Corps No: NWO-2013-00344-MTB

Subject: Bluewater Hatchery Tillet Spring Cap

Mr. Paul Valle Montana Fish, Wildlife and Parks Post Office Box 200701 Helena, Montana 59620-0701

Dear Mr. Valle:

We have reviewed the Montana joint application you submitted for Department of the Army (DA) authorization to cap the existing Tillet springs hatchery water source to secure it from possible contamination so it can be used in the Bluewater Springs trout hatchery. The project is located in Section 9, Township 6 South, Range 24 East, in Carbon County, Montana.

Specifically, you requested authorization for the following work in waters of the U.S.:

Work Item	Description
a.	Cap the existing Tillet spring with a precast concrete cover set on a cast-in-place concrete grade wall around the existing spring. The existing pipe collecting water from the spring will then be replaced with a new pipe to new aeration towers and continuing on to the hatchery building. A weir box will be installed in the pipeline so that when water is not being used in the hatchery building, it can be piped to the Bluewater springs water collection box for use in the existing outside raceways.
b.	The precast concrete cover will measure 48-feet by 48-feet and will extend 8 to 12 feet away from the spring. The replacement pipe will extend 8 feet into the spring.

Under the authority of Section 404 of the Clean Water Act (CWA), DA permits are required for the discharge of fill material into waters of the U.S. Waters of the U.S. include the area below the ordinary high water mark of stream channels and lakes or ponds connected to the tributary system, and wetlands adjacent to these waters. Isolated waters and wetlands, as well as man-made channels and ditches, may be waters of the U.S. in certain circumstances, which must be determined on a case-by-case basis.

The Corps of Engineers (Corps) prepared the enclosed preliminary jurisdictional determination (JD) for the sites. A preliminary JD is a written indication that waterways and wetlands within your project area may be waters of the U.S. These waters were treated as jurisdictional waters of the U.S. for the purposes of determining project impacts and compensatory mitigation requirements. Preliminary JDs may not be appealed.

If you believe the preliminary JD is inaccurate, you may request this office complete an approved JD prior to your commencement of any work in a water of the U.S. An approved JD is an appealable



official determination regarding the presence or absence of waters of the U.S. Completion of an approved JD may require coordination with the U.S. Environmental Protection Agency.

If you believe the preliminary JD is accurate and do not want the Corps to complete an approved JD, please sign the preliminary JD and return it to the letterhead address within two weeks. If you agree with the preliminary JD, you may proceed with the proposed project in accordance with the terms and conditions of DA Nationwide Permit (NWP) 39 found in the February 21, 2012 Federal Register (76 FR 9174), Reissuance of Nationwide Permits. Enclosed is a fact sheet that fully describes this NWP and lists the General and Regional Conditions that must be complied with. Please note that deviations from the original plans and specifications of your project could require additional authorization from this office.

Although an Individual DA permit involving a public interest review will not be required for the project, this does not eliminate the requirement that you obtain any other applicable Federal, state, tribal, and local permits as required.

The Montana Department of Environmental Quality provided the enclosed CWA Section 401 water quality certification for this NWP which also includes General Conditions which must be complied with that certification to remain valid. This does not eliminate the need to obtain other permits that may be required by that agency.

This verification will be valid until March 18, 2017. In accordance with the terms and conditions of the NWPs, you are responsible for all work accomplished. If a contractor or other authorized representative will be accomplishing the work authorized by an NWP on your behalf, it is strongly recommended that they be provided a copy of this letter and the attached conditions so that they are aware of the limitations of the applicable NWP. Any activity that fails to comply with all of the terms and conditions of the NWP will be considered unauthorized and subject to appropriate enforcement action.

Should you at any time become aware that either an endangered or a threatened species, or their critical habitat, exists within the project area, you must immediately notify this office.

In compliance with General Condition 30, the enclosed Compliance Certification form must be signed and returned to the address listed upon completion of the authorized work and any required mitigation.

The Omaha District, Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at <a href="http://per2.nwp.usace.army.mil/survey.html">http://per2.nwp.usace.army.mil/survey.html</a>. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

Please contact me at (406) 657-5910 if you have any questions and reference Corps File Number NWO-2013-00344-MTB.

Sincerely,

Cathy Juhas

Regulatory Project Manager

Enclosures:
Preliminary Jurisdictional Determination for NWO-2013-00344-MTB
NW 39 Fact Sheet with Regional Conditions
Montana DEQ CWA Section 401 Water Quality Certification
Compliance Certification

Copy Furnished, without enclosures: Bentley Ranch Holdings, LLC 3319 Jack Burke Lane Billings, Montana 59106





MAK 2 U 2013

DESIGN & CUNSTRUCTION
DEPT. OF FISH, WILDLIFE & PARKS
Brian Schweitzer, Governor

P. O. Box 200901

Helena, MT 59620-0901

(406) 444-2544

Website: www.deq.mt.gov

April 20, 2012

# Water Quality Certification In Accordance With Section 401 of the Clean Water Act For The 2012 Nationwide Permits in Montana

#### A. Certification

DEQ is granting Section 401 Water Quality Certification (certification) for Nationwide Permits 1, 2, 4-11, 15-22, 24-25, 28-36, 38-44 and 46-50 with the general conditions in part D. below.

## **B. Special Conditions for Specific Nationwide Permits**

- 1) DEQ is granting certification for Nationwide Permits #3, #14, and #23 with the general conditions in part D. below and the following condition: DEQ Water Protection Bureau Discharge Permitting Program must be notified by the permittee within 48 hours of commencement of the regulated activity. Notification must be sent to <a href="https://www.wpbpublicNotices@mt.gov">wpbpublicNotices@mt.gov</a> or fax (406) 444-1374 Attention Water Protection Bureau. Notification shall include at minimum (a) the permittee name, (b) the project name, (c) the Nationwide Permit used and Army Corp. of Engineers file number for the project, (d) the Township, Range and Section, and (e) the project or regulated activity location in decimal latitude and longitude to the millionth degree (six significant figures to the right of the decimal point).
- 2) DEQ is granting certification of Nationwide Permit #12 (utility line activities) with the general conditions in part D. below for projects where a static or vibratory plow is used. For all other projects that qualify under this Nationwide Permit, DEQ denies certification.
- 3) DEQ is granting certification of Nationwide Permit #13 (bank stabilization), Nationwide Permit #37 (emergency watershed protection and rehabilitation), and Nationwide Permit #45 (repair of uplands damaged by discrete events) with the general conditions in part D. below for all projects equal to or less than 300 feet in length.

#### C. Denial

DEQ denies certification for Nationwide Permit #27 (stream and wetland restoration), Nationwide Permit #51 (land based renewable energy generation facilities), and Nationwide Permit #52 (water based energy renewable energy generation facilities).

#### D. General Conditions for Nationwide Permits

The following general conditions apply to all certified Nationwide Permits as provided in A and B above.

- 1) This certification does not authorize the placement or construction of septic/leach/stormwater systems or other sewage treatment facilities in wetlands.
- 2) This certification does not authorize construction of dams, except for aquatic restoration projects and temporary dams associated with construction activity.
- 3) This certification requires that materials used in stream bank or shore stabilization projects adhere to the Montana Department of Environmental Quality's December 5, 2000 guidelines for materials for stream bank stabilization (also attached). Tires may not be used to stabilize any banks or shores in state waters.
- 4) This certification requires that all equipment be inspected for oil, gas, diesel, anti-freeze, hydraulic fluid and other petroleum leaks. Equipment cannot continue operating in or near the water if a leak is discovered. All such leaks will be properly repaired prior to equipment being allowed on the project. Leaks that occur after the equipment is moved to the project site will be fixed that same day or the next day or be removed from the project area. If equipment is to be operated in or near water, a spill containment kit shall be available at the project site.
- 5) This certification requires that all permittees shall, to the maximum extent practicable, incorporate and construct design features that eliminate bridge deck run-off containing sediment, salt, or other pollutants from discharging directly into state water. To the extent practicable, bridge deck discharge, should be directed to a detention basin of unspecified size prior to discharge into state waters.
- 6) This certification requires that riprap projects, to the extent practicable, avoid the use of geotextile fabric as riprap underlayment. To the extent practicable, riprap voids shall incorporate approximately 30-50% fines/soil and viable plant material and/or root-stock. (A technique specification example is available upon request).

# Policy on Streambank Stabilization

This policy outlines the guidelines for approved materials to be used for streambank stabilization in Montana. This policy and a draft Environment Assessment were provided to the public for comment via public notice MT-00-10 issued September 18, 2000. Comments were accepted until October 17, 2000. The draft Environmental Assessment is adopted as the final Environmental Assessment with the Responses to Comments incorporated.

Signed into policy 12/05/00 by Bonnie Lovelace, Chief, Water Protection Bureau and 12/06/00 by Jan Sensibaugh, Administrator, Permitting & Compliance Division.

For answers to questions or copies of the Response to Comments by mail or e-mail, contact Marilyn Pelo, Water Protection Bureau, at (406) 444-0574 or mpelo@state.mt.us.

#### **GUIDELINES FOR MATERIALS FOR STREAMBANK STABILIZATION**

The following guidelines represent the efforts of a work group composed of Conservation District representatives, natural resource consultants, environmental interests, and state and federal regulatory agencies. They are suggested by the Montana Department of Environmental Quality and not necessarily endorsed by all the work group members. These guidelines are only for use in areas where the use of high-density, angular rock is not practicable. (The term "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes [40 CFR 230.3(q)]). Sandstone or broken concrete may be acceptable alternatives to high-density, angular rock in certain situations, although local regulation may prohibit their use. The use of any river training device/structure may directly or cumulatively alter the ecology of Montana rivers and streams. Cumulative impact considerations may preclude the use of any river training device.

Bank stabilization projects are sometimes authorized under the following jurisdictions: Local Conservation District – Natural Streambed & Land Conservation Act (310); Montana Department of Fish Wildlife and Parks – Stream Protection Act (SPA124); County Floodplain Administrator – Floodplain Permit; U.S. Army Corps of Engineers – Section 404/10 Permit; Montana Department of Environmental Quality – 75-5-318, MCA Authorization; Montana Department of Natural Resources and Conservation – Navigable Rivers Land Use License/Easement.

The following optional design concepts should be considered in conjunction with the guidelines to minimize environmental/aesthetic concerns:

- Utilize rock only in the lower\* portion or toe of the riprap with woody structures/features, biodegradable fabric, etc. in the upper\* portions.
   \* The elevation at which the mean annual flow occurs is the division between "upper" and "lower."
- Incorporate soil in the upper portions of the project with appropriate woody (usually willow) plantings as near average water elevations as possible and herbaceous plantings elsewhere.
- Provide a temporary or permanent buffer strip (streamside area where protection promotes growth
  and sustenance of woody vegetation) along the project length to provide for vegetation stability where
  grazing or recreational use may impact plant growth.
- Preferably, plantings should be on slopes of 3:1 or flatter and irrigated, if possible.

( *Note:* Numerous documents with more detailed information are available. Contact the Natural Resource Conservation Service or the Department of Natural Resources and Conservation for their "Stream Project Manual.")

#### **COMPLIANCE CERTIFICATION**

Project: (Please attach copy of the completed "Joint Application for Proposed Work in Montana's Streams, Wetlands, Floodplains, and Other Water Bodies.")

Upon completion of project activity, sign this certificate and return it to the following address:

Montana Department of Environmental Quality Permitting & Compliance Division/Water Protection Bureau Box 200901 Helena, MT 59620-0901

Please answer the following questions:

- 1. What is the source of the concrete rubble?
- 2. What is the type of concrete rubble (curb/gutter, foundation, etc.)?
- 3. What was the cost of the rubble?

  (The recipient of the rubble cannot be compensated for accepting the rubble without a landfill license.)

I hereby certify that the project work performed is in compliance with all applicable permits and in compliance with the "Guidelines for Materials for Streambank Stabilization."

Signature of Project Owner	Date			
nereby certify that I provided the concrete rubb	ole used in the proj	ect and that I d	lid not comp	ensate the
vner for accepting the rubble.				